

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

ROY L. ELLIS,

Plaintiff,

v.

**LYNN SAFRANEK, In individual and
official capacity, OMAHA WORLD
HERALD, and JOSH
SWARTZLANDER, In individual and
official capacity,**

Defendants.

8:07CV118

ORDER ON INITIAL REVIEW

This matter is before the court for initial review of the complaint filed by the plaintiff, Roy L. Ellis, a prisoner in the custody of the Douglas County Correctional Center who is proceeding pro se and in forma pauperis ("IFP"). The plaintiff asserts claims of defamation, slander and constitutional violations by the Omaha World Herald and Staff Writers Lynn Safranek and Josh Swartzlander.

PLRA

The Prison Litigation Reform Act ("PLRA") requires the court to screen civil rights complaints brought by prisoners, establishes criteria governing dismissal of prisoner complaints, and restricts remedies and procedures in prisoner litigation. The PLRA limits the recovery of damages for emotional distress. See 42 U.S.C. § 1997e(e): "Limitation on recovery. No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury."

Having reviewed the complaint, I find that this case need not be dismissed on initial review. Therefore, as initial review of the complaint is now completed, it is time for the plaintiff to obtain service of process on the defendant, as set forth below. Because the plaintiff is proceeding IFP, the U.S. Marshal will serve the defendants, after the plaintiff completes the appropriate forms.

IT IS THEREFORE ORDERED:

1. To obtain service of process on the defendants, the plaintiff must complete and return forms which the Clerk of Court will provide. The Clerk of Court shall send a copy of this Order together with THREE summonses and THREE Form 285s to the plaintiff, for service on the defendants.

2. The plaintiff shall, as soon as possible, send the completed summonses and 285 forms back to the Clerk of Court. In the absence of those forms, service of process cannot occur.

3. Upon receipt of the completed summonses and 285 forms, the Clerk will sign the summonses, to be forwarded, together with a copy of the complaint, to the U.S. Marshal for service of process. A plaintiff proceeding IFP does not have to copy the complaint; the court will do so on the plaintiff's behalf. The Marshal shall serve the summonses and complaint without payment of costs or fees. Service may be by certified mail pursuant to Fed. R. Civ. P. 4 and Nebraska law in the discretion of the Marshal.

4. Fed. R. Civ. P. 4 requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this order the plaintiff is informed for the first time of these requirements, the plaintiff is granted, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process. Failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant.

5. If service has been obtained on no defendant by the deadline set forth above, the Clerk of Court shall bring this case to the attention of the court.

6. After an appearance has been filed by a defendant, the plaintiff shall serve on the defendant or, if an appearance has been entered by counsel, upon such counsel, a copy of every future pleading, letter or other document submitted to the court. Parties usually serve copies on other parties by first class mail.

7. The plaintiff shall include with each document submitted to the court a "Certificate of Service" stating the date a true and correct copy of such document was mailed to the defendant(s) or to the attorney of any represented defendant. To send communications to the court without serving a copy on the other parties to the case violates the rules of court.

8. The defendants shall have twenty (20) days after receipt of the summons to answer or otherwise respond to the complaint.

9. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court.

10. The plaintiff shall keep the court informed of his current address at all times while this case is pending. Failure to do so may result in dismissal.

DATED this 18th day of May, 2007.

BY THE COURT:

s/F.A. Gossett
United States Magistrate Judge